
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Baca Broadcasting, LLC)	File No. EB-FIELDWR-14-00016260
Licensee of Station KFUN)	NOV No. V201432940051
)	
Las Vegas, New Mexico)	Facility ID No.: 34442

NOTICE OF VIOLATION

Released: July 10, 2014

By the District Director, San Diego Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules),¹ to Baca Broadcasting, LLC (Baca Broadcasting), licensee of radio station KFUN in Las Vegas, New Mexico. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violations noted herein.²

2. On June 16, 2014, an agent of the Enforcement Bureau's San Diego Office inspected radio station KFUN's main studio located in Las Vegas, New Mexico, and observed the following violations:

- a. 47 C.F.R. § 11.35(a): "EAS Participants must determine the cause of any failure to receive the required tests or activations specified in §11.61(a)(1) and (2). Appropriate entries indicating reasons why any tests were not received must be made in the broadcast station log as specified in §§73.1820 and 73.1840 of this chapter for all broadcast streams" At the time of the inspection, there were no entries explaining why required monthly tests were not received and transmitted from March to June 2014. The station logs failed to show explanations by the Chief Operator for why these tests were not received and transmitted.
- b. 47 C.F.R. § 11.52(d)(2) " With respect to monitoring for EAS messages that are formatted in accordance with the EAS protocol, EAS participants must monitor two EAS sources. The monitoring assignments of each broadcast

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

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station... are specified in the State EAS Plan and FCC Mapbook.” At the time of inspection, Station KFUN was unaware it was not monitoring its required assignments of KOB and KASA-TV until advised by the San Diego agent.

3. As the nation’s emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that broadcasters play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees.

4. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,³ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Baca Broadcasting must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

5. In accordance with Section 1.16 of the Rules, we direct Baca Broadcasting to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Baca Broadcasting, with personal knowledge of the representations provided in Baca Broadcasting’s response, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information requested by this Notice which is in the licensee’s possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

6. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

³ 47 U.S.C. § 308(b).

⁴ 47 C.F.R. § 1.89(c).

⁵ Section 1.16 of the Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 C.F.R. § 1.16.

⁶ 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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San Diego Office
4542 Ruffner St., Rm. 370
San Diego, CA 92111

7. This Notice shall be sent to Baca Broadcasting, LLC, at its address of record.
8. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

James T. Lyon
District Director
San Diego Office
Western Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).